

In re: Thomas Zickell
Filed: July 3, 2001
Serial No.: 09/898,707
Page 10

REMARKS

The present amendment is in response to the Notice of Non-Compliant Amendment under 37 CFR § 1.121 dated September 30, 2003 for the Amendment filed September 24, 2003. The Office considered the amendment filed September 24, 2003 non-compliant because claims 16 - 20 did not include the text of the claims that were previously withdrawn. Enclosed herein is a copy of the text of all claims including the previously withdrawn claims. Applicant respectfully submits that no new matter has been added and that the present listing of all the claims complies with 37 CFR § 1.121 as set forth in the Notice of Non-Compliant Amendment. Accordingly, Applicant respectfully submits that the Amendment filed on September 24, 2003 is hereby in compliance. Applicant also respectfully requests that the arguments in the Amendment filed September 24, 2003 should be considered.

Applicant also notes, however, that the Revised Notice of REVISED FORMAT OR AMENDMENTS (dated February 13, 2003, see enclosed copy) mailed by the Patent and Trademark Office with all responses explaining the revised amendment format states, in relevant part, "Cancelled and withdrawn claims should be indicated by only the claim number and status." Furthermore, in the

In re: Thomas Zickell
Filed: July 3, 2001
Serial No.: 09/898,707
Page 11

"Example of listing of claims" section of the same notice, the text for the cancelled claims and withdrawn claims is not included. Accordingly, Applicant respectfully requests the Patent & Trademark Office to clarify whether or not the text of the withdrawn and cancelled claims should be included per the present Notice of Non-Compliant Amendment or should not be included per the Revised Notice of REVISED FORMAT OR AMENDMENTS since there is, at best, ambiguity between what the Office is requiring and the information provided by the Office.

Because of this ambiguity, Applicant believes that no additional fees are required with this Amendment. If a fee is required, however, the Office is authorized to charge Deposit Account No. 02-3285 for any fees associated with this response.

Respectfully submitted,

Thomas Zickell

By 

Paul J. Kroon, Jr.
Registration No. 51,902
Attorney for Applicant(s)
BOURQUE & ASSOCIATES, P.A.
835 Hanover Street, Suite 301
Manchester, New Hampshire 03104
Telephone: (603) 623-5111
Facsimile: (603) 624-1432
Date: October 28, 2003